

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference A 15060-PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/001037	International filing date (day/month/year) 05.02.2004	Priority date (day/month/year) 07.04.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant RITTAL GMBH & CO. KG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>8</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input checked="" type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001037

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-7 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-7 _____ received by this Authority on 26.06.2004 with letter
- nos.* _____ received by this Authority on of 24.06.2004
- ☒ the drawings:
- sheets 1/2-2/2 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001037

Box No. II

Priority

1. ☒ This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
 - ☒ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. ☐ This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001037

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-7</u>	YES
		Claims <u></u>	NO
	Inventive step (IS)	Claims <u></u>	YES
		Claims <u>1-7</u>	NO
	Industrial applicability (IA)	Claims <u>1-7</u>	YES
		Claims <u></u>	NO
2.	Citations and explanations (Rule 70.7)		
	Reference is made to the following documents:		
	D1: DE 44 13 130 A (LOH KG RITTAL WERK) 26 October 1995 (1995-10-26)		
	D2: FR-A-2 770 897 (OULOUNIS KAMAL) 14 May 1999 (1999-05-14)		
	D3: US-A-4 776 180 (PATTON SR JAMES M ET AL) 11 October 1988 (1988-10-11)		
	D4: US-A-5 839 295 (LEHMANN WALTER E) 24 November 1998 (1998-11-24)		
	D5: DE 199 21 554 A (BADER ENGINEERING GMBH) 25 November 1999 (1999-11-25)		
	D6: GB-A-1 537 821 (MK REFRIGERATION LTD) 10 January 1979 (1979-01-10).		
	A Novelty		
	The present application satisfies the requirements of PCT Article 33(1) because the subject matter of claims 1 to 7 is novel within the meaning of PCT Article 33(2).		
	Document D1 is considered the prior art closest to the subject matter of claim 1. It discloses (the references		

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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between parentheses relate to D1):

a recooling system having a refrigerant circuit and a water circuit (22) which comprise as components an evaporator (5), a condenser (2), a compressor (1), a pump (7), a tank (11) and a ventilator (6, 15) and are accommodated in two partial frames, divided by a separating wall, of a receiving housing (see column 3, lines 58 to 64),

wherein the receiving housing (21) can be connected to one side of a switch cabinet or a machine housing and can be brought into contact with this side in a heat-exchanging manner (see column 1, lines 34 to 51),

wherein the open rear wall (see the figure, the lower edge of the case 21, and column 1, lines 61 to 67) of the receiving housing (21) can be connected to the switch cabinet or the machine housing (see column 1, lines 34 to 51) and the adjoining rear partial space houses the pump (7),

wherein the partial space of the receiving housing (21) facing the front wall (see the figure, the upper edge of the case 21, near the ventilator 6) houses the condenser (2) and the ventilator (6),

and wherein the condenser (2) and the ventilator (6) are connected to the outside (see column 3, lines 4 to 7) through openings in the front wall (see the figure, the upper edge of the case 21, near the ventilator 6).

The subject matter of claim 1 therefore differs from the known recooling system in that:

- i) the rear partial space also houses the condenser and the tank,

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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- ii) the compressor of the refrigeration circuit is disposed in a receiving area bridging the two partial spaces, and
- iii) the compressor is accessible from the front of the receiving housing.

Consequently, the subject matter of claim 1, and of claims 2 to 7, which are dependent on claim 1, is novel within the meaning of PCT Article 33(2).

B Inventive step

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claims 1 to 7 does not involve an inventive step within the meaning of PCT Article 33(3).

B.1 Claim 1

The problems to be solved by the above three features i), ii) and iii) are therefore understood to be those of:

reducing the amount of space required by the housing (features i) and ii), and
ensuring access to the compressor from the front of the receiving housing (feature iii)).

The solution suggested in claim 1 of the present application cannot be considered inventive (PCT Article 33(3)), for the following reasons:

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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Features i) and ii) concern only one of several obvious arrangements of the different components of the refrigeration circuit among which a person skilled in the art would choose if he wished to reduce the amount of space needed by the refrigeration system. Therefore, these features are obvious and cannot substantiate an inventive step (see, for example, document D5, figure 1, for feature ii)).

Feature iii) was already used for the same purpose with a similar refrigeration system (see document D4, in particular column 5, lines 43 to 46). To a person skilled in the art wishing to achieve the same purpose with a recooling system according to document D1, it would be straightforward to apply this feature to corresponding effect.

To a person skilled in the art it was therefore obvious to also apply features i) to iii) to a recooling system according to document D1 to corresponding effect and in this way to arrive at a recooling system according to claim 1.

The subject matter of claim 1 does not involve an inventive step within the meaning of PCT Article 33(3).

B.2 Dependent claims 2 to 7

Dependent claims 2 to 7 do not contain any features which, combined with the features of any claim to which they refer, meet the PCT requirements for inventive step. These features concern minor structural modifications of

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001037

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

the recooling plant, which are generally known to a person skilled in the art (see documents D1 to D6 and the corresponding passages cited in the search report).

Consequently, the present application does not meet the requirements of PCT Article 33(3).

C. Industrial applicability

The subject matter of claims 1 to 7 is considered industrially applicable within the meaning of PCT Article 33(4).